



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 21, 1995

Ms. Alesia L. Sanchez  
Legal Assistant  
Legal and Compliance, 110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR95-189

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30223.

The Texas Department of Insurance (the "department") received an open records request for a list indicating whether the department is currently pursuing any cases or administrative class actions against three particular insurance companies. You contend that the department may withhold the list from the public pursuant to the Open Records Act, section 552.103(a) of the Government Code.

Section 552.103(a) applies to information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). You assert that the information on the list relates to pending and anticipated litigation for alleged violations of state insurance laws. In this instance you have made the requisite showing that the requested information relates to pending and reasonably anticipated litigation for purposes of section 552.103(a).

However, we note that the opposing parties in the pending litigation, and possibly in the anticipated litigation, apparently would know about some of the information in the list. For example, we would assume that the opposing party in the pending litigation would know the following information: "case name" (which is the name of the insurance company), "atty 1" (which we presume indicates the initials of the department attorney to whom the case was assigned), "product," (which indicates the type of insurance involved) and "problem." The opposing party may know other information on the list. We assume that the opposing party does not know the information in the "next planned action" section of the list. We do not believe the litigation interests of the department are protected by the nondisclosure of information the opposing party knows about. Thus, there is no justification for now withholding such information pursuant to section 552.103(a). Open Records Decision Nos. 349, 320 (1982).

Thus, we conclude that the department may not withhold the information on the list that the opposing party knows about pursuant to section 552.103. The department may withhold from disclosure the information on the list that the opposing party does not know about. Once the litigation is concluded, the applicability of section 552.103(a) ends. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Kay H. Guajardo".

Kay H. Guajardo  
Assistant Attorney General  
Open Government Section

KHG/rho

Ref.: ID# 30223

Enclosures: Submitted documents

cc: Mr. Russell R. Barton  
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(w/o enclosures)